

11. Enforcement

11.1 Introduction

Forest Practices staff working in conjunction with forest landowners, timber owners, and operators is responsible for ensuring that forest practice activities are conducted according to the Forest Practices Act and Rules, as well as the conditions of the approved forest practices application/notification. Region Forest Practices staff prioritizes compliance inspections relative to the potential risk to public resources posed by the forest practice activity. For example, forest practices that propose substantial road construction in steep terrain where there is potential for direct sediment delivery to a stream will receive a higher level of compliance inspections over a proposal that has limited road construction on gentle slopes with no associated risk of sediment delivery to a stream.

The classification of a forest practices application is correlated with the level of risk to a public resource and is therefore used as a tool for forest practices foresters to determine the level of compliance inspections that will be conducted for a particular forest practices activity. This targeted approach helps ensure the most effective and efficient use of forest practices forester's time. There are four classes of forest practices:

- Class I - determined to have no direct potential for damaging a public resource.
- Class II- determined to have a less than ordinary potential to damage a public resource.
- Class III - determined to have an average potential to damage a public resource.
- Class IV - determined to have potential for a substantial impact on the environment – this is further evaluated dependent upon whether the proposal is IV-General or IV-Special classification.

Regardless of the classification, all forest practices activities must be performed in compliance with the Forest Practices Act and Rules. For more detailed information on forest practices classifications go to: http://www.dnr.wa.gov/Publications/fp_rules_ch222-16wac.pdf and refer to WAC 222-16-050.

Compliance visits are an important part of the forest practices forester's job. The information gathered during compliance visits and compliance monitoring (for more information on the Compliance Monitoring Program, see Chapter 8) is used for program improvement. Improvement may include clarifying rule language, modifying rules, improving the administration of the rules, and additional education and training.

When a forest practices activity has been found to be out of compliance with the rule, Forest Practices staff have several enforcement options available: informal conferences, Notices to Comply (NTC), Stop Work Orders (SWO), civil penalties, Notice of Intent to Disapprove, and criminal penalties. The Forest Practices Act and the Forest Practices Board (Board) encourage informal, practical, result-oriented resolution of alleged violations and actions needed to prevent damage to public resources. It is also the Board's policy to use a progressive approach to enforcement that begins with consultation and voluntary efforts to achieve compliance while reserving civil penalties (monetary fines) for more serious infractions.

11.2 Enforcement Activity

Enforcement documents can be used for either violations or non-violations. Violations are forest practices activities that have damaged a public resource or violate a law or rule. Non-violations are situations where damage to a public resource has not occurred but the forest practices forester has determined that damage is imminent if the activity or condition is not altered. An example would be an operator who does not have adequate road surface drainage on a haul road for use in the rainy season. The operator could be issued a non-violation Notice to Comply requiring the road be upgraded so it does not pose a threat to public resources during heavy rains. The following table shows enforcement activity between July 1, 2009, and June 30, 2010. In the tables and charts, the following are the region designations: SE – Southeast; NW – Northwest; SPS – South Puget Sound; NE – Northeast; PC – Pacific Cascade; OL – Olympic.

**Fiscal Year 2010
Stop Work Orders and Notices to Comply Issued**

Region	Stop Work Orders (SWOs)		Notices to Comply (NTCs)		Total
	Non-Violation	Violation	Non-Violation	Violation	
SE	0	1	1	7	9
NW	0	32	30	19	81
SPS	2	6	11	5	24
NE	1	18	8	38	65
PC	0	1	8	11	20
OL	1	7	9	17	34
Total	4	65	67	97	233

Fiscal Year 2010 Enforcement Data Summary

Number of current Forest Practices Application/Notifications (FPA/Ns) through June 30, 2010	14,118
Number of NTCs/SWOs issued for violations	162
Ratio of NTC/SWO violations to total number of valid FPA/Ns (162/14,118)	1.15%
Number of NTCs/SWOs issued for non-violations	71
Ratio of NTC/SWO non-violations to total number of valid FPA/Ns (71/14,118)	.50%
Total number of documents issued (violation & non-violation)	233
Ratio of all documents issued to total valid FPA/Ns (233/14,118)	1.65%

The table above compares the number of NTC/SWO documents issued in FY2010 to the number of current forest practices applications through June 30, 2010. A comparison from the 2009 annual report shows an increase of 55 NTC/SWOs issued which breaks down to an increase of 0.31 percent for NTC/SWO's issued for violations and an increase of 0.25 percent for NTC/SWO's issued for non-violations. Further evaluation would be needed to determine the reason(s) behind these increases.

The program has approximately 44 (not all positions are full-time) forest practices staff statewide who are assigned in the field and who are directly responsible for complying and enforcing the Forest Practices Act and Rules. This number is different from what was reported in last year's annual report (77 staff) because it does not include administrative and support staff. The change is being made to provide increased clarity on program staffing levels responsible for the on-the-ground compliance and enforcement of the rules.

The majority of violations do not require additional enforcement action such as issuance of a civil penalty or Notice of Intent to Disapprove. The decision to pursue this level of enforcement is made at the Region level and a number of factors are taken into consideration such as:

- Failure to comply with the terms or conditions of a Forest Practices Application/Notification or Stop Work Order,
- The probability of more than minor harm to the environment,
- The extent of damage to the public resource,
- Whether there have been multiple violations of the same rule or law.

The table below shows the number of civil penalties and Notices of Intent to Disapprove that became a Final Order* during FY2010.

Fiscal Year 2010 Civil Penalties and Notices of Intent to Disapprove

Region	Civil Penalties	Notice of Intent to Disapprove
SE	0	0
NW	3	2
SPS	1	0
NE	1	1
PC	0	0
OL	0	0
Total	5	3

*Final Order occurs when all appeal processes have concluded.